

**REMARKS**

Claims 20- 34, and 36-47 are pending with claims 21-29, 33, 34, 36, 37, 39, 40 and 42-44 withdrawn and claims 32 and 48-52 cancelled by this paper.

Applicants acknowledge the Examiner's time and courtesy during the June 24, 2003, interview with Applicants' representative James E. Ruland. See Interview Summary of June 24, 2003. The below comments will address the Final Action mailed March 14, 2003, and that interview.

**Brief Description of Any Exhibit Shown or Demonstration Conducted.**

None.

**Identification of the Claims Discussed.**

Claims 20, 41, 45, 46, and 48-52 were discussed.

**Specific Prior Art Discussed**

U.S. Patent No. 5,395, 881 (Spelthann).

**Identification of the Principle Proposed Amendments*****Claim Amendments***

Commas have been added for the various species of copolymer (A) in the independent claims to delineate the individual defined species, as discussed during the interview.

Applicants respectfully submit that adding commas does not narrow the scope of the claims.

***Claim Rejections Under 35 USC §112, first paragraph***

The Action alleges that the copolymer (A) made from an unsaturated epoxide in independent claims 20, and 45-46 is not fully enabled unless ethylene is included in the copolymer. During the interview, it was suggested to amend copolymer (A) to define it as being made from ethylene and an unsaturated epoxide or being of ethylene and an unsaturated epoxide. As depicted above, such amendments are made in independent claims 20, 41, 45 and 46. Consequently, Applicants respectfully submit these rejections should be withdrawn.

*Claim rejections under 35 USC §112, second paragraph*

The Action alleges that the weight ratios are not concisely denoted in the absence of a denominator. Applicants respectfully submit that the weight ratio is now clarified in independent claims 20, 41, 45 and 46 to address these concerns. Also, Applicants respectfully submit that clarifying the ratios by adding ":1" does not narrow the scope of the claims.

*Claim rejections under 35 USC §103*

Claims 20, 30, 32, 38 and 45-52 stand rejected under 35 USC §103 as allegedly being unpatentable over Spelthann. Applicants respectfully submit that the independent claims now define that the weight ratio of (C)/(B) is 02.:1-0.5:1. As discussed in Applicants' last reply filed February 24, 2003, Spelthann discloses a weight ratio of components (2)(a)/(1)(b) of about 0.78-9,000. Spelthann fails to teach or suggest a weight ratio of (C)/(B) of 0.2:1-0.5:1. See pages 5-6 of the Reply filed February 24, 2003. Consequently, Applicants respectfully submit that the currently amended independent claims are patentable over Spelthann. These amendments were discussed during the interview and are now reflected in the claims.

General Thrust of Principle Arguments

With respect to the general thrust of arguments accompanying the amendments to the claims, these arguments have been included above with the discussion of the amendments.

*Claim rejections under 35 USC §§112, first paragraph*

The Action alleges that there is no support on page 5, line 36 – page 6, line 33 for the characterization in claim 48 that, "co-polymer (C) promotes the crosslinking of copolymers (A) and (B). The Action also alleges that the sources of the weight ratios of (C)/(B) of claims 50 and 52 cannot be found.

During the interview, Applicants pointed out that support for claim 48 can be found in the specification at page 1, line 36-page 2, line 2. However, Applicants have cancelled claim 48 to expedite the resolution of the remaining issues.

With respect to the source of the weight ratios of (C)/(B), as discussed during the interview, Applicants respectfully submit that support can be found at page 6, lines 2-3.

Consequently, Applicants respectfully submit that these rejections should be withdrawn.

*Claim Differentiation*

During the interview, the Examiner also requested clarification of claims 20 and 41. Applicants respectfully submit that a species of copolymer (A) is defined as a copolymer made from ethylene and an unsaturated epoxide, while claim 41 defines a copolymer (A) as being of ethylene and an unsaturated epoxide. As discussed in the interview, Applicants provided these claims with this distinction to ensure coverage entitled by Applicants in view of the decision in *Exxon Chemical Patents, Inc. v. Lubrizol Corp.*, 35 USPQ 2d 1801 (Fed. Cir. 1995).

*Exxon v. Lubrizol* pertains to a lubricating oil composition comprising an ashless dispersant. When the ashless dispersant was combined with other components, the ashless dispersant was not present in the final composition in the amounts claimed. The patentee Exxon argued that the amounts of claimed product should be compared to the initial ingredients combined to make the product. However, the alleged infringer Lubrizol claimed that its product did not contain the amount of ashless dispersant required by Exxon's claim because the ashless dispersant when combined reacted with the other ingredients. The Court declined to follow Exxon's interpretation and found that Lubrizol did not infringe Exxon's claims.

In the present application, the claims define polymers and copolymers. Copolymers as well as other polymers are generally defined from their starting monomers. As an example, Hawley's Condensed Chemical Dictionary (1997) defines a copolymer, in part, by providing an example of a SBR (styrene butadiene rubber) synthetic rubber. There is no styrene or butadiene in the copolymer, rather this is what the copolymer is made from.

Although Applicants do not know how a court would interpret the present claims, Applicants have provided the claims defining the copolymers as being made from their specific starting monomers, as well as an independent claim defining the copolymer as including its starting monomers, which is consistent with the terminology generally used in the art. However, Applicants are submitting both of these types of claims to ensure coverage of what Applicants are entitled.

In view of the above remarks, favorable reconsideration is courteously requested. If

Oct-14-03 09:36pm From-MILLEN, WHITE, ZELANO & BRANIGAN

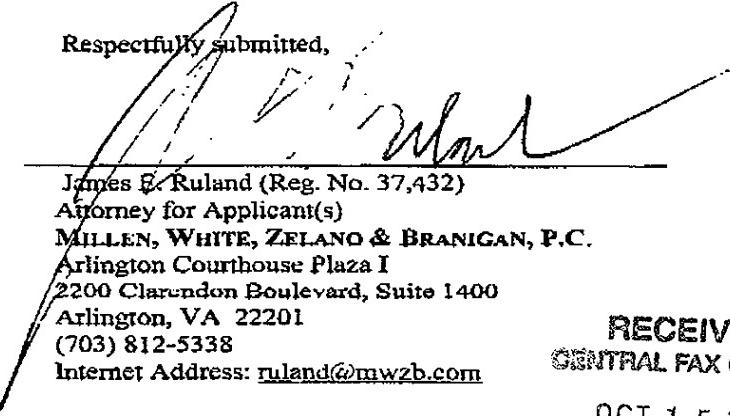
7032436410

T-113 P.14/14 F-106

there are any remaining issues which could be expedited by a telephone conference, the Examiner is courteously invited to telephone counsel at the number indicated below.

The Commissioner is hereby authorized to charge any fees associated with this response, or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

  
James E. Ruland (Reg. No. 37,432)  
Attorney for Applicant(s)  
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.  
Arlington Courthouse Plaza I  
2200 Clarendon Boulevard, Suite 1400  
Arlington, VA 22201  
(703) 812-5338  
Internet Address: [ruland@mwzb.com](mailto:ruland@mwzb.com)

RECEIVED  
CENTRAL FAX CENTER

OCT 15 2003

Filed: July 28, 2003  
K:\AZOCM\100-199\154\amendment 7-17-03.doc